

Mao Declaration Ex. 3

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VIA E-MAIL

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Re: ***Chasom Brown, et al., v. Google LLC*, Case No. 4:20-cv-03664-YGR (N.D. Cal.)**
(Correspondence RE: Administrative Motion) - DESIGNATED HIGHLY
CONFIDENTIAL - ATTORNEYS' EYES ONLY

Counsel:

While reviewing data recently compiled for, and produced in, the *Calhoun* case, counsel for Google became aware of a log field named "[REDACTED]". Our subsequent investigation established that this field was created for [REDACTED]

[REDACTED]. This API "loophole" was publicly known and Google [publicly announced](#) that it was closing the API "loophole" for Chrome approximately one year prior to this lawsuit. In addition, explanations of Chrome's changes to the FileSystem API were publicly reported on and detailed in documents produced in this case, *see, e.g.*, GOOG-CABR-04331727.

In an abundance of caution, however, Google has investigated the "[REDACTED]" field and underlying heuristic. The heuristic [REDACTED]

[REDACTED]. As would be done in the ordinary course upon discovering nonfunctional code, Google seeks to deprecate the "[REDACTED]" field and heuristic entirely.

quinn emanuel urquhart & sullivan, llp

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Although the heuristic does not bear on any relevant issue in this case—including because it was defunct for Chrome long before Plaintiffs filed suit and because the Court has denied Plaintiffs’ motion for a Rule 23(b)(3) damages class on grounds wholly unrelated to identification of individual class members (or their private browsing instances)—Google will be filing an administrative motion seeking the Court’s permission to deprecate it. Google will not make any changes to the “[REDACTED]” field or underlying heuristic until the Court has had an opportunity to rule on Google’s request.

Please let us know whether Plaintiffs object to Google filing this motion. We will make ourselves available today to confer with Plaintiffs regarding this administrative motion, and plan to file the motion tomorrow, December 21.

Sincerely,

QUINN EMANUEL URQUHART & SULLIVAN, LLP

/s/ Seth Fortenbery
Seth Fortenbery

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